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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COPYTELE, INC., a Delaware
Corporation,

Plaintiff,

v.

AU OPTRONICS CORPORATION, a
Taiwanese corporation; E INK
HOLDINGS, INC., a Taiwanese
corporation; and E INK CORPORATION,
a Delaware corporation,

Defendants.

Case No. 3:13-cv-00380-EMC

**STIPULATION AND [PROPOSED]
ORDER TO MODIFY BRIEFING
SCHEDULE AND CONTINUE HEARING
DATE ON MOTIONS TO DISMISS AND
TO COMPEL ARBITRATION**

Date: June 6, 2013
Time: 1:30 p.m.
Dept: Courtroom 5, 17th Floor
Judge: The Honorable Edward M. Chen

1 WHEREAS, on January 28, 2013, Plaintiff CopyTele, Inc. (“CopyTele”) filed a complaint
2 (“Complaint”) against Defendants E Ink Holdings, Inc., a Taiwanese corporation, E Ink
3 Corporation, a Delaware corporation (collectively “E Ink”), and AU Optronics Corporation
4 (“AUO”), a Taiwanese corporation;

5 WHEREAS, on January 28, 2013, CopyTele filed a complaint against E Ink in the related
6 case No. 3:13-cv-00378-EMC (“Related Complaint”);

7 WHEREAS, on April 29, 2013, E Ink filed a motion to dismiss all claims against it in the
8 Complaint;

9 WHEREAS, on April 29, 2013, E Ink also filed a motion to dismiss all claims against it in
10 the Related Complaint;

11 WHEREAS, on April 29, 2013, E Ink also filed a motion in the alternative to stay the
12 claims against it pending arbitration;

13 WHEREAS, on April 29, 2013, AUO filed a motion to stay litigation and compel
14 arbitration;

15 WHEREAS, pursuant to this Court’s stipulated Order, the Case Management Conference
16 in this case is scheduled for June 6, 2013, at 1:30 p.m., the date and time that E Ink’s motion to
17 dismiss, E Ink’s motion in the alternative to stay, and AUO’s motion to compel arbitration are
18 noticed to be heard by the Court (Docket No.45);

19 WHEREAS, CopyTele’s lead counsel, Eric Fastiff, has a conflict with the scheduled
20 June 6, 2013 hearing date for the aforementioned motions and Case Management Conference;
21 Mr. Fastiff is the Chair of the Board of Trustees of his children’s school and is required to preside
22 over the 8th grade graduation taking place that afternoon;

23 WHEREAS, CopyTele’s responses to the defendants’ motions are currently due May 13,
24 2013;

25 WHEREAS, in light of the number of motions and related issues to which CopyTele must
26 respond, CopyTele seeks a one-week extension until May 20, 2013, for CopyTele to respond to
27 the aforementioned motions;

28 WHEREAS, E Ink and AUO seek a one-week extension to file their reply briefs;

1 WHEREAS, pursuant to this Court's Notice of Unavailability this Court is unavailable
2 June 13, 2013;

3 WHEREAS, AUO's counsel are also unavailable for a hearing on June 13, 2013;

4 WHEREAS, counsel for all parties are all available for a hearing on June 27, 2013;

5 WHEREAS, continuing the Case Management Conference until June 27, 2013, the
6 same proposed hearing date as for E Ink's motion to dismiss, E Ink's motion in the alternative to
7 stay, and AUO's motion to compel arbitration, would promote judicial economy and efficiency
8 and facilitate productive case management; and

9 WHEREAS, with the Case Management Conference continued to June 27, 2013, the Case
10 Management Conference Statement would be due on or before June 20, 2013, pursuant to Civil
11 General Standing Order No. 6, and no other case deadline would be affected;

12 WHEREAS, the parties seek to modify the briefing schedule and continue the Case
13 Management Conference and the hearing until June 27, 2013;

14 **IT IS HEREBY STIPULATED AND AGREED** that:

- 15 1. CopyTele shall file its response to E Ink's motion to dismiss the Complaint on or
16 before May 20, 2013;
 - 17 2. CopyTele shall file its response to E Ink's alternative motion to stay claims against
18 it pending arbitration on or before May 20, 2013;
 - 19 3. CopyTele shall file its response to AUO's motion to stay litigation and compel
20 arbitration on or before May 20, 2013;
 - 21 4. E Ink and AUO shall file their reply briefs on or before June 3, 2013;
 - 22 5. Both the Case Management Conference and the hearing on E Ink's and AUO's
23 motions shall be continued from June 6, 2013 to June 27, 2013 at 1:30 p.m.;
 - 24 6. Pursuant to Civil General Standing Order No. 6, the Case Management Conference
25 Statement will be due on or before June 20, 2013.
- 26
27
28

1 Dated: May 3, 2013

LIEFF, CABRASER, HEIMANN
& BERNSTEIN, LLP

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3
4 By: /s/ Eric B. Fastiff
Eric B. Fastiff

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Attorneys for Plaintiff COPYTELE, INC.

11 Dated: May 3, 2013

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Attorneys for Defendant E INK CORPORATION

19 Dated: May 3, 2013

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*Attorneys for Defendant AU OPTRONICS
CORPORATION*

ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, I attest that concurrence in the filing of this document has been obtained from the other signatories.

DATED: May 3, 2013

/s/ David T. Rudolph

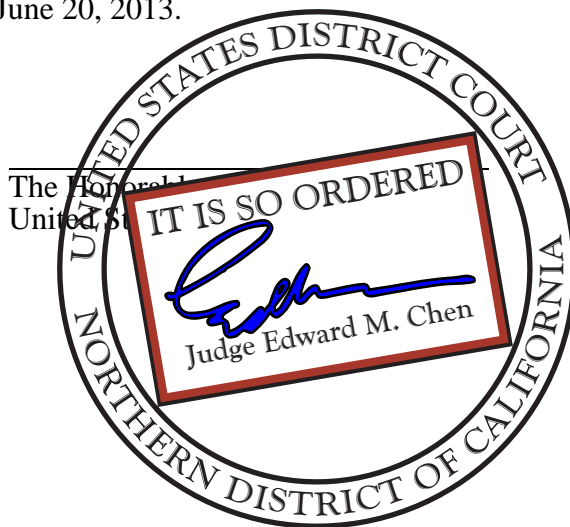
David T. Rudolph

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. For good cause shown:

1. CopyTele shall file its response to E Ink's motion to dismiss the Complaint (Docket No. 50) on or before May 20, 2013;
2. CopyTele shall file its response to E Ink's alternative motion to stay claims against it pending arbitration (Docket No. 52) on or before May 20, 2013;
3. CopyTele shall file its response to AUO's motion to stay litigation and compel arbitration (Docket No. 54) on or before May 20, 2013;
4. E Ink and AUO shall file their reply briefs on or before June 3, 2013;
5. Both the Case Management Conference and the hearing on E Ink's and AUO's motions shall be continued from June 6, 2013 to June 27, 2013 at 1:30 p.m.;
6. Pursuant to Civil General Standing Order No. 6, the Case Management Conference, Statement will be due on or before June 20, 2013.

Dated: 5/6, 2013



CERTIFICATE OF SERVICE

I hereby certify that, on May 3, 2013, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ David T. Rudolph
David T. Rudolph